IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Group Art Unit 2672

In re

Patent Application of

Sachiko Nishiura

Application No. 09/454,755

Confirmation No.: 4202

Filed: December 6, 1999

Examiner: Ryan R. Yang

"APPARATUS AND METHOD FOR CONVERTING AN OBJECT DISPLAY DESCRIPTION DOCUMENT"

I, Elizabeth M. Campbell Tressler, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date of my signature.

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5-3-06
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APPEAL BRIEF

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Sir:

Applicant appeals from the final Office Action dated September 7, 2005, rejecting all the currently pending claims in the present application. A Notice of Appeal and Pre-Appeal Brief Request for Review were filed January 13, 2006. The Panel Decision finding at least one actual issue for appeal is dated March 3, 2006. This Appeal Brief is being filed with a one-month extension of time to extend the deadline for reply to May 3, 2006. Please charge the $120.00 fee associated with the one-month extension of time to Deposit Account No. 50-1965. Please charge any required fees or credit any overpayment to Deposit Account No. 50-1965.

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I. REAL PARTY IN INTEREST

The real party in interest is NEC Corporation, 7-1, Shiba 5-chome, Minato-ku, Tokyo, Japan.

II. RELATED APPEALS AND INTERFERENCES

None.

III. STATUS OF CLAIMS

This is an appeal from the rejection set forth in the September 7, 2005 Office Action. Claims 1, 2, 4-11, 13-20 and 22-30 are pending. A copy of claims 1, 2, 4-11, 13-20 and 22-30 can be found in Section VIII of this Appeal Brief. Claims 3, 12, 21, and 31-33 were previously cancelled. Claims 1, 2, 4-11, 13-20 and 22-30 stand finally rejected. Appellants appeal the rejection of claims 1, 2, 4-11, 13-20 and 22-30.

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejection mailed September 7, 2005.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

A. INDEPENDENT CLAIM 1

Independent claim 1 is directed to:

An apparatus for converting an original set of source objects by reducing the number of objects required to display a description document (pg. 4, lines 7-12; pg. 7, lines 11-22; pg. 12, line 17 – pg. 16, line 5; pg. 17, line 17 – pg. 18, line 13; Figs. 3-5 and 7-11), said apparatus comprising a generating means for generating a set of new objects, from said original set of source objects in the document, a number of new objects in said set of new objects being fewer than a number of objects in said original set of source objects (reference numbers 1-10; pg. 6, lines 18-25; pg. 7, lines 1-18; pg. 7, line 23 – pg. 18, line 13; Figs. 3-11), said fewer objects obtaining a display image equivalent to the display of an image obtained from said original set of source objects (pg. 6, lines 14-17, pg. 7, lines 19-22; pg. 18, lines 7-13),

wherein said generating means generates said new objects from a semi-transparent source object and other source objects located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11),

wherein said generating means generates a new merged object including at least a first source object having an area and a second source object having an area and superimposed on said first source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11).

B. INDEPENDENT CLAIM 10

Independent claim 10 is directed to:

A method for converting an original set of source objects by reducing the number of objects required to display a description document (pg. 4, lines 13-18; pg. 7, lines 11-22; pg. 12, line 17 – pg. 16, line 5; pg. 17, line 17 – pg. 18, line 13; Figs. 3-5 and 7-11), said method comprising a step of generating a set of new objects, from said original set of source objects in the document, a number of said new objects forming a set of new objects fewer than a number of said source objects forming said original set of source objects (reference numbers 1-10; pg. 6, lines 18-25; pg. 7, lines 1-18; pg. 7, line 23 – pg. 18, line 13; Figs. 3-11), to obtain a display image equivalent to the display image obtained from said set of source objects (pg. 6, lines 14-17, pg. 7, lines 19-22; pg. 18, lines 7-13),

wherein said generation step generates said new objects from a semi-transparent source object and other source objects located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11),

wherein said generating step generates a new merged object including at least a first source object having an area and a second source object having an area and superimposed on said first source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11).

C. INDEPENDENT CLAIM 19

Independent claim 19 is directed to:

A computer program for causing a computer to execute a method for converting an object display description document by reducing the number of objects required for the display (pg. 4, lines 19-25; pg. 7, lines 11-22; pg. 12, line 17 – pg. 16, line 5; pg. 16, line 16 – pg. 18, line 13; Figs. 3-5 and 7-12), said method comprising a generation step of generating, from an original set

of source objects in the document, a set of new objects which are fewer than a number of said objects forming said original set of source objects (reference numbers 1-10 and 1000-1007; pg. 6, lines 18-25; pg. 7, lines 1-18; pg. 7, line 23 – pg. 18, line 13; Figs. 3-12), in order to obtain a display image equivalent to the display image obtained from said original set of source objects (pg. 6, lines 14-17, pg. 7, lines 19-22; pg. 18, lines 7-13),

wherein said generation step generates new objects from a semi-transparent source object and other source objects located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-12),

wherein said generating step generates a new merged object including at least a first source object having an area and a second source object having an area and superimposed on said first source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-12).

D. INDEPENDENT CLAIM 28

Independent claim 28 is directed to:

An apparatus for converting an original set of source objects by reducing the number of objects required to display a description document (pg. 4, lines 7-12; pg. 7, lines 11-22; pg. 12, line 17 – pg. 16, line 5; pg. 17, line 17 – pg. 18, line 13; Figs. 3-5 and 7-11), said apparatus comprising a generating means for generating a set of new objects, from said original set of source objects in the document, a number of new objects in said set of new objects being fewer than a number of objects in said original set of source objects (reference numbers 1-10; pg. 6, lines 18-25; pg. 7, lines 1-18; pg. 7, line 23 – pg. 18, line 13; Figs. 3-11), said fewer objects

obtaining a display image equivalent to the display of an image obtained from said original set of source objects (pg. 6, lines 14-17, pg. 7, lines 19-22; pg. 18, lines 7-13),

wherein said generating means generates said new objects from a semi-transparent source object and other source objects not semi-transparent and located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source objects (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11),

wherein said generating means generates a new merged object including at least a first source object and a second source object superimposed on said first source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11).

E. INDEPENDENT CLAIM 29

Independent claim 29 is directed to:

A method for converting an original set of source objects by reducing the number of objects required to display a description document (pg. 4, lines 13-18; pg. 7, lines 11-22; pg. 12, line 17 – pg. 16, line 5; pg. 17, line 17 – pg. 18, line 13; Figs. 3-5 and 7-11), said method comprising a step of generating a set of new objects, from said original set of source objects in the document, a number of said new objects forming a set of new objects fewer than a number of said source objects forming said original set of source objects (reference numbers 1-10; pg. 6, lines 18-25; pg. 7, lines 1-18; pg. 7, line 23 – pg. 18, line 13; Figs. 3-11), to obtain a display image equivalent to the display image obtained from said set of source objects (pg. 6, lines 14-17, pg. 7, lines 19-22; pg. 18, lines 7-13),

wherein said generation step generates said new objects from a semi-transparent source object and other source objects not semi-transparent and located at a layer lower than a layer

including said semi-transparent source object and spatially overlapping said semi-transparent source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11),

wherein said generating step generates a new merged object including at least a first source object and a second source object superimposed on said first source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-11).

F. INDEPENDENT CLAIM 30

Independent claim 30 is directed to:

A computer program for causing a computer to execute a method for converting an object display description document by reducing the number of objects required for the display (pg. 4, lines 19-25; pg. 7, lines 11-22; pg. 12, line 17 – pg. 16, line 5; pg. 16, line 16 – pg. 18, line 13; Figs. 3-5 and 7-12), said method comprising a generation step of generating, from an original set of source objects in the document, a set of new objects which are fewer than a number of said objects forming said original set of source objects (reference numbers 1-10 and 1000-1007; pg. 6, lines 18-25; pg. 7, lines 1-18; pg. 7, line 23 – pg. 18, line 13; Figs. 3-12), in order to obtain a display image equivalent to the display image obtained from said original set of source objects (pg. 6, lines 14-17, pg. 7, lines 19-22; pg. 18, lines 7-13).

wherein said generation step generates new objects from a semi-transparent source object and other source objects not semi-transparent and located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-12),

wherein said generating step generates a new merged object including at least a first source object and a second source object superimposed on said first source object (pg. 12, line 3 – pg. 15, line 5; pg. 17, lines 6-10; pg. 18, lines 7-13; Figs. 3 and 8-12).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 1-2, 6-11, 15-18, and 28-30 are unpatentable under 35 U.S.C. § 102(e) as anticipated by Vyncke et al. (U.S. Patent No. 5,926,185).

B. Whether claims 19-20 and 24-27 are unpatentable under 35 U.S.C. § 103(a) as obvious over Vyncke et al.

C. Whether claims 4, 13, and 22 are unpatentable under 35 U.S.C. § 103(a) as obvious over Vyncke et al. and Cannon (U.S. Patent No. 5,559,950).

D. Whether claims 5, 14, and 23 are unpatentable under 35 U.S.C. § 103(a) as obvious over Vyncke et al. and Capps et al. (U.S. Patent No. 5,583,542).

VII. ARGUMENT

A. CLAIMS 1-2, 6-11, 15-18, AND 28-30 ARE NOT ANTICIPATED BY VYNCKE ET AL. (U.S. PATENT NO. 5,926,185).

The heart of the Examiner's prima facie case is his assertion that the Vyncke reference (U.S. Patent No. 5,926,185) teaches:

> the object 210 in Figure 8a is not opaque (column 8, line 37). Since the object is not opaque, it is either semi-transparent or transparent. Therefore, Vyncke still meets the claim limitations.

September 7, 2005 Office Action at p. 13. Not being opaque does not establish that the object is semi-transparent and thus does not establish anticipation by Vyncke.

In its June 17, 2005 Response at pp. 3-10, Applicant amended its claims to recite "semi-transparent" instead of "translucent" because the Examiner argued that *translucent* meant *transparent*. See April 22, 2005 Office Action at pp. 13-14. Applicant also asserted that the definition of *translucent* (in the April 22, 2005 Office Action) that was more compatible with the specification is: "admitting and diffusing light so that the object beyond cannot be clearly distinguished; partly transparent." June 17, 2005 Response at p. 12. This definition is supported by the specification's repeated references to "transparent *or* translucent." Id. (emphasis added).

Despite his apparent acknowledgement that neither Vyncke nor any other cited reference expressly teaches a semi-transparent object, the Examiner continues to assert that Vyncke anticipates claims 1-2, 6-11, 15-18, and 28-30. September 7, 2005 Office Action at p. 2. This is clear error. When Vyncke is read carefully, it is apparent that its concern is with either hidden or visible objects – not partly-seen objects. The quoted section is from a paragraph addressing hidden objects; no reference is made to objects that are partially seen. Lacking a clear teaching that Vyncke discloses a semi-transparent object, it cannot anticipate the rejected claims.

The Federal Circuit recently acknowledged that the terms *transparent* and *translucent* (which Applicant asserts is synonymous with *semi-transparent* in the current application) are distinct. "The definition [of clear] also sets forth an express distinction between transparent and translucent: 'transparent stresses complete absence of obstruction to vision' and 'translucent applies to that which permits passage of light but bars clear and complete vision.'" *Terlep v. Brinkmann Corp.*, 418 F.3d 1379, 1384 (Fed. Cir. 2005). Vyncke's Figure 8a (shown above) does not bar clear and complete vision, but instead shows no obstruction to vision. Vyncke's reference to the circle 210 being "not opaque (solid)" is by no means a teaching that the circle is semi-transparent. Vyncke does not anticipate or render obvious the claims.

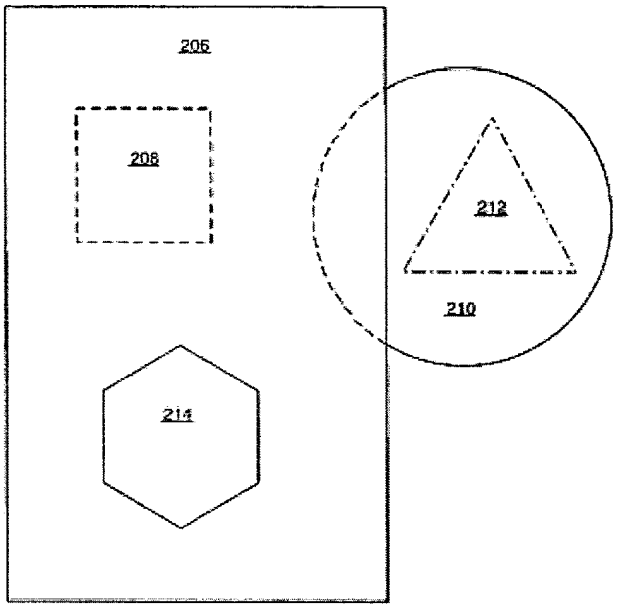

Fig. 8a

To anticipate, the prior art must show each and every element of the claim, either expressly or inherently. MPEP 2131 (citing *Verdegaal Bros. v. Union Oil Co. of Calif.*, 814 F.2d 628, 631). Vyncke does not expressly disclose that the nature of the object, only that it is "not opaque." "A claim limitation is inherent in the prior art if it is *necessarily* present in the prior art, *not* merely probably or possibly present." *Akamai Techs., Inc. v. Cable & Wireless Internet Services, Inc.*, 344 F.3d 1186, 1192 (Fed. Cir. 2003). Elsewhere, Vyncke refers to objects as "all opaque (solid) or all transparent," col. 9, line 42-43, indicating that Vyncke did not contemplate

a semi-transparent object. Here, the Examiner has not identified any reason to believe that the object 210 in Vyncke is necessarily translucent, i.e., semi-transparent, and it was clear error for the Examiner to have rejected claims 1-2, 6-11, 15-18, and 28-30.

B. CLAIMS 19-20 AND 24-27 ARE PATENTABLE UNDER 35 U.S.C. § 103(A) OVER VYNCKE ET AL.

As with the claims discussed in Section VII.A, claims 19-20 and 24-27 are not rendered obvious by Vyncke, despite the Examiner's assertion to the contrary. September 7, 2005 Office Action at 9. Because Vyncke does not expressly or inherently disclose a semi-transparent object as claimed, and the Examiner has identified nothing in the prior art to cure this lack of disclosure, claims 19-20 and 24-27 are not obvious and should be allowed.

C. CLAIMS 4, 13, AND 22 ARE PATENTABLE UNDER 35 U.S.C. § 103(A) OVER VYNCKE ET AL. AND CANNON (U.S. PATENT NO. 5,559,950).

Likewise, the Examiner has asserted that dependent claims 4, 13, and 22 are obvious in view of Vyncke in combination with Cannon. September 7, 2005 Office Action at 11. Cannon does not teach or suggest a semi-transparent (or translucent) object and thus does not cure the deficiencies of Vyncke. Claims 4, 13, and 22 should be allowed.

D. CLAIMS 5, 14, AND 23 ARE PATENTABLE UNDER 35 U.S.C. § 103(A) OVER VYNCKE ET AL. AND CAPPS ET AL. (U.S. PATENT NO. 5,583,542).

Likewise, the Examiner has asserted that dependent claims 5, 14, and 23 are obvious in view of Vyncke in combination with Capps. September 7, 2005 Office Action at 11. Capps does not teach or suggest a semi-transparent (or translucent) object and thus does not cure the deficiencies of Vyncke. Claims 5, 14, and 23 should be allowed.

In view of the foregoing, reversal of the rejections of claims 1, 2, 4-11, 13-20 and 22-30 and allowance of claims 1, 2, 4-11, 13-20 and 22-30 are respectfully requested.

VIII. CLAIMS APPENDIX

Pursuant to 37 C.F.R. §41.37 (c)(1)(viii), this appendix includes a copy of only the claims involved in the appeal. Cancelled claims and their identification numbers are not included in this appendix.

1. An apparatus for converting an original set of source objects by reducing the number of objects required to display a description document, said apparatus comprising a generating means for generating a set of new objects, from said original set of source objects in the document, a number of new objects in said set of new objects being fewer than a number of objects in said original set of source objects, said fewer objects obtaining a display image equivalent to the display of an image obtained from said original set of source objects,

wherein said generating means generates said new objects from a semi-transparent source object and other source objects located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object,

wherein said generating means generates a new merged object including at least a first source object having an area and a second source object having an area and superimposed on said first source object.

2. The apparatus as recited in claim 1, wherein said generating means deletes source objects hidden spatially behind another source object which is not semi-transparent.

4. The apparatus as recited in claim 1, wherein generation of said new object from said semi-transparent source object and said other source objects is performed for a time range in which said semi-transparent source object spatially overlaps said other source objects.

5. The apparatus as recited in claim 1, wherein said generating means deletes a source object when a display time for said source object is out of a display time range for said set

of source objects.

6. The apparatus as recited in claim 1, further comprising a means for storing said set of new objects to a storage medium.

7. The apparatus as recited in claim 1, further comprising a means for selectively storing said set of source objects or said set of new objects to a storage medium.

8. The apparatus as recited in claim 1, further comprising a means for displaying said set of new objects, wherein said apparatus is used as a browser.

9. The apparatus as recited in claims 1, further comprising a means for selectively displaying said set of source objects or said set of new objects, wherein said apparatus is used as a browser.

10. A method for converting an original set of source objects by reducing the number of objects required to display a description document, said method comprising a step of generating a set of new objects, from said original set of source objects in the document, a number of said new objects forming a set of new objects fewer than a number of said source objects forming said original set of source objects, to obtain a display image equivalent to the display image obtained from said set of source objects,

wherein said generation step generates said new objects from a semi-transparent source object and other source objects located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object,

wherein said generating step generates a new merged object including at least a first source object having an area and a second source object having an area and superimposed on said first source object.

11. The method as recited in claim 10, wherein said generation step deletes source

objects hidden spatially behind another source object which is not semi-transparent.

13. The method as recited in claim 10, wherein generation of said new object from said semi-transparent source object and said other source objects is performed for a time range in which said semi-transparent source object spatially overlaps said other source objects.

14. The method as recited in claim 10, wherein said generation step deletes a source object when a display time for said source object is out of a display time range for said set of source objects.

15. The method as recited in claim 10, further comprising a step of storing said set of new objects to a storage medium.

16. The method as recited in claim 10, further comprising a step of selectively storing said set of source objects or said set of new objects to a storage medium.

17. The method as recited in claim 10, further comprising a step of displaying said set of new objects.

18. The method as recited in claims 10, further comprising a step of selectively displaying said set of source objects or said set of new objects.

19. A computer program for causing a computer to execute a method for converting an object display description document by reducing the number of objects required for the display, said method comprising a generation step of generating, from an original set of source objects in the document, a set of new objects which are fewer than a number of said objects forming said original set of source objects, in order to obtain a display image equivalent to the display image obtained from said original set of source objects,

wherein said generation step generates new objects from a semi-transparent source object and other source objects located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object,

wherein said generating step generates a new merged object including at least a first source object having an area and a second source object having an area and superimposed on said first source object.

20. The program as recited in claim 19, wherein said generation step deletes source objects hidden spatially behind another source object which is not semi-transparent.

22. The program as recited in claim 19, wherein generation of said new object from said semi-transparent source object and said other source objects is performed for a time range in which said semi-transparent source object spatially overlaps said other source objects.

23. The program as recited in claim 19, wherein said generation step deletes a source object when a display time for said source object is out of a display time range for said set of source objects.

24. The program as recited in claim 19, further comprising a step of storing said set of new objects to a storage medium.

25. The program as recited in claim 19, further comprising a step of selectively storing said set of source objects or said set of new objects to a storage medium.

26. The program as recited in claim 19, further comprising a step of displaying said set of new objects.

27. The program as recited in claims 19, further comprising a step of selectively displaying said set of source objects or said set of new objects.

28. An apparatus for converting an original set of source objects by reducing the number of objects required to display a description document, said apparatus comprising a generating means for generating a set of new objects, from said original set of source objects in the document, a number of new objects in said set of new objects being fewer than a number of objects in said original set of source objects, said fewer objects obtaining a display image equivalent to the display of an image obtained from said original set of source objects,

wherein said generating means generates said new objects from a semi-transparent source object and other source objects not semi-transparent and located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source objects,

wherein said generating means generates a new merged object including at least a first source object and a second source object superimposed on said first source object.

29. A method for converting an original set of source objects by reducing the number of objects required to display a description document, said method comprising a step of generating a set of new objects, from said original set of source objects in the document, a number of said new objects forming a set of new objects fewer than a number of said source objects forming said original set of source objects, to obtain a display image equivalent to the display image obtained from said set of source objects,

wherein said generation step generates said new objects from a semi-transparent source object and other source objects not semi-transparent and located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object,

wherein said generating step generates a new merged object including at least a first source object and a second source object superimposed on said first source object.

30. A computer program for causing a computer to execute a method for converting an object display description document by reducing the number of objects required for the display, said method comprising a generation step of generating, from an original set of source objects in the document, a set of new objects which are fewer than a number of said objects forming said original set of source objects, in order to obtain a display image equivalent to the display image obtained from said original set of source objects.

wherein said generation step generates new objects from a semi-transparent source object and other source objects not semi-transparent and located at a layer lower than a layer including said semi-transparent source object and spatially overlapping said semi-transparent source object,

wherein said generating step generates a new merged object including at least a first source object and a second source object superimposed on said first source object.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.

Respectfully submitted,

Dated: May 3, 2006

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